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Governor

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Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

ROBERT L. MORGAN
Executive Director

JERRY D. OLDS
State Engineer/Division Director

STATE OF UTAH
DIVISION OF WATER RIGHTS

**DIVISION OF WATER RIGHTS,
Jerry D. Olds, State Engineer,
Claimant
vs.
Beesmark Investment L.C.
Respondent**

DIVERSION REGULATION, MEASURING DEVICE AND HEADGATE NOTICE

SEAA 1078
Water Right #55-1317(D436)

TO: Beesmark Investment L.C.
C/O RASMUSSEN, RALPH
251 RIVER PARK DR STE 350
PROVO, UT 84604

This letter serves as your notice that your diversion from Main Creek with the above water right will be included in the Provo River Distribution System and will be regulated by the commissioner according to the water rights on record with the Division of Water Rights. As a water user in the distribution system you will be assessed each year to pay the commissioner's salary and expenses. Your assessment will be based on your water right.

To make it possible for the water commissioner to measure and control the flows on your ditches, an accurate measuring device and headgate must be installed at each of your diversions associated with Water Right No. 55-1317(D436). Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the

Diversion Regulation, Measuring Device and Headgate Notice

state engineer is authorized to bring such action in the name of the state to foreclose such lien."

Therefore, you are hereby notified that your diversions must be equipped with a functional and accurate measuring device and lockable headgate or control structure. These improvements must be completed prior to April 15, 2005. We would recommend that you talk with the commissioner to see what he would recommend be installed in your particular situation.

Your diversion will be inspected for compliance. If it is not in compliance, an Order to Cease the Use of Water will be issued from the State Engineer. If such an order is issued, the diversion will be tagged, closed, and locked by the water commissioner. In situations where the diversion cannot be closed, the State Engineer may seek a court order requiring the use of water be ceased until such time as the control structure and measuring device are installed and working properly.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice, please contact me by phone at (801) 538-7380 or by e-mail at LeeSim@Utah.Gov or Jim Riley, Regional Engineer, by phone at (801) 538-7400 or by e-mail at JimRiley@Utah.gov

Dated this 30 day of August, 2004

A handwritten signature in black ink, appearing to read 'Lee H. Sim', with a stylized flourish at the end.

Lee H. Sim, P.E.
Assistant State Engineer

cc: Jim Riley, Regional Engineer,
Stanley Roberts, Water Commissioner